IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 616 OF 1998

The Commissioner of Income-tax. ... Applicant.
V/s.
M/s.Wimco Limited. ... Respondent.

A.S.Rao for the Applicant.

P.Vaidya with S.N.Inamdar for respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 29th March, 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following questions for

the opinion of this Court:

> "1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that for the purpose of computation of disallowance u/s.40A(5)/40(c), medical reimbursement should be treated as salary instead of perquisite?
>
> "2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that provisions of section 40(c) and not those of Section 40A(5) apply in the case of director of the company?"

2. The first question has already been answered

by the Division Bench of this Court in the case of

C.I.T. v. Mahindra Ugine Steel Co.Ltd., in favour

of assessee and against the the revenue.

3. The second question has already been

answered by the Division Bench of this Court in the

case of **C.I.T. v. Hico Products (P.) Ltd.,** in favour of assessee and against the the revenue.

4. In this view of the matter, both the questions referred are answered in affirmative for the reasons stated in the above referred judgments.

5 Reference stands disposed of accordingly with no order as to costs.

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